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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/926,811	07/01/2002	Yoshihiko Funakoshi	217206US3PCT	4840
22850	7590	01/13/2006	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			VANORE, DAVID A	
			ART UNIT	PAPER NUMBER
			2881	

DATE MAILED: 01/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

EX

Office Action Summary	Application No.		Applicant(s)	
	09/926,811		FUNAKOSHI ET AL.	
	Examiner		Art Unit	
	David A. Vanore		2881	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 October 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 59-251 is/are pending in the application.
- 4a) Of the above claim(s) 88-105 and 118-251 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 59-87 and 106-117 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>7/02, 6/04, 6/05</u> | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

1. The last Office action set forth that the Applicant failed to provisionally elect an invention for examination. ^{That} ~~This~~ action is withdrawn. Applicant has elected Group I, claims 59-87 and 106-117 with traverse.

Election/Restrictions

2. Applicant's election with traverse of Group I in the reply filed on 10/13/05 is acknowledged. The traversal is on the ground(s) that firstly, the second restriction requirement unduly added cost to the prosecution of the application and secondly that the Office has not met its burden in setting forth a prima facie case for a restriction requirement in the case at hand. This is not found persuasive because of the following reasons.

3. Firstly, MPEP 811.02 sets forth that restriction is proper at any stage of prosecution even though there was a prior requirement.

4. Secondly, the examiner selected the feature which complied with the defined term "special technical feature". Each of the enumerated groups are drawn to different classes of inventions, a container, a billet, a container manufacturing apparatus, and a container manufacturing method. The special technical feature pointed out by the examiner in the requirement appeared to elevate the invention containing said feature above the prior art when taken as a whole. In response, the applicant has selected for examination the group drawn to a container but does not contain the special technical feature pointed out by the examiner. In the response, the applicant has not noted that the feature pointed out by the applicant is or is not such a special technical feature.

5. The examiner has apparently complied with the requirement for setting for a restriction requirement.
6. The withdrawn claims will be considered for rejoinder after examination of the elected invention on the merits.
7. The requirement is still deemed proper and is therefore made FINAL.
8. Claims 88-105 and 118-251 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected inventions, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on October 13, 2005.

Claim Rejections - 35 USC § 112

9. Claims 62, 70, and 76 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
10. Claims 62, 70, and 76 recite the limitation "the basket used for nuclear fuel aggregate" in line 3. There is insufficient antecedent basis for this limitation in the claims. The term is used to limit the shape of the container by linking the shape of the tool used to manufacture the container to a basket used to store nuclear material in the container. The claims do not point out what the shape of the basket is, or specific limitations on the container shape.

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claims 59-63, 65-71, 73-76, 78-80, 82-84, 85-87, and 106-117 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Anspach et al. (USPN 4,579,274).

13. Regarding claims 59, 67, 75, 80, 84, 106, 111, and 116, Anspach et al. teaches a radiation container having an integrally formed body (Fig. 3 Item 3) where the thickness of the steel container of Anspach et al. is sufficient to maintain a dosage of gamma radiation at or below 40. The claims also contain limitations reciting the method of forming. Limitations reciting the method of forming of the container or the device used to form the container are part of the process utilized to realize the final product. As such the claims have been treated as product by process claims.

14. Regarding claims 60, 68, 107, and 112 a shape in a section of the container vertical to an axial direction is circular (Note Fig. 2).

15. Regarding claims 61, 66, 69, 74, 79, 83, 87, 108, 110, 113, 115, and 117, a shape in a section of the container vertical to an axial direction is polygonal (Note Fig. 3).

16. Regarding claims 62, 70, and 76, the claims limit the apparatus used for manufacturing the container. As such, they fail to limit the container itself and are rejected for the same reasons as their parent claims.

17. Regarding claims 63, 71, 109, and 114, the inner diameter of the container body is 1 meter, indicating that the outer diameter is not less than 1 meter, but, as indicated

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in Fig. 3, not more than three meters. Further, given the illustrated diameter of the container, the thickness is illustrated as being about a less than a third, but more than one tenth of the diameter of the container, and therefore falls in the range required in the claim.

18. Regarding claim 65, 73, 78, 82, and 86, the container includes an integral flange (Fig. 3 Item 5).

Claim Rejections - 35 USC § 103

19. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

20. Claims 64, 72, 77, 81, and 85 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anspach et al. (USPN 4,579,274) in view of Kirchner et al. (USPN 5,567,952)

21. Anspach et al. teaches all the required limitations of claims 64, 72, 77, 81, and 85 except for a spot facing section.

22. Kirchner et al. teaches a radioactive container having a spot facing section filled with neutron absorbing material (Item 23 in Fig. 3B).

23. Kirchner et al. modifies the prior art of Anspach et al. to provide a container having a spot facing section.

24. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a spot facing section in a radioactive container to provide

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space for further neutron absorbing material as utilized in Kirchner et al. to provide additional shielding material, thereby maintaining a safe environment external the container.

Conclusion

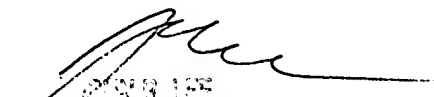
Any inquiry concerning this communication or earlier communications from the examiner should be directed to David A. Vanore whose telephone number is (571) 272-2483. The examiner can normally be reached on M-F 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John R. Lee can be reached on (571) 272-2477. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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